

## **REMARKS**

### **REVIEW**

The current application sets forth claims 1 through 24, of which claims 1, 8, 16, and 22 are independent claims. Claims 9 and 17 through 21 have been cancelled by amendment. Applicant gratefully acknowledges that claims 1-7 and 16 have been indicated as allowed. Further, claims 15, 23 and 24 stand objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

Claim 22 also stands rejected under 35 U.S.C. § 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter Applicant's regard as their invention. Claims 8, 10-14, and 22 stand collectively rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by U.S. Patent No. D450,620 to *Simpson*.

### **35 U.S.C. §112, SECOND PARAGRAPH REJECTION**

Claim 22 has been rejected under 35 U.S.C. § 112, second paragraph, as allegedly failing to distinctly point out the claimed invention. The above amendments address this informality.

### **35 U.S.C. §102(b) REJECTION**

35 U.S.C. § 102 provides that applicant is entitled to a patent for his invention unless it is proved to be anticipated by a piece of prior art. *See* 35 U.S.C. § 102. The burden is, therefore, upon the Examiner to show that "**every element** of the claimed invention **must** be **identically** shown in a single reference." *Diversitech Corp. v. Century Steps, Inc.*, 850 F.2d 675, 677, 7 U.S.P.Q.2d 1315, 1317 (Fed. Cir. 1988; emphasis added). The disclosed elements must be arranged as in the claim

under review. See Lindemann Machinefabrik v. American Hoist & Derrick Co., 730 F.2d 1452, 1458, 221 U.S.P.Q. 481, 485 (Fed. Cir. 1984). If any claim, element, or step is absent from the reference that is being relied upon, there is no anticipation. Kloster Speedsteel AB v. Crucible, Inc., 793 F.2d 1565, 230 U.S.P.Q. 81 (Fed. Cir. 1986; emphasis added). Anticipation under 35 U.S.C. Section 102 requires that there be an identity of invention. See Shatterproof Glass Corp. v. Libbey-Owens Ford Co., 758 F.2d 613, 619, 225 U.S.P.Q. 635, 637 (Fed. Cir. 1985; emphasis added). In PTO proceedings, claim language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art. In re Sneed, 710 F.2d 1544, 1548, 218 U.S.P.Q. 385, 388 (Fed. Cir. 1983). The following analysis of the present rejections is respectfully offered with guidance from the foregoing controlling case law decisions.

**Claims 8, 10-14.** Claims 8, 10-14 stand rejected as allegedly being unpatentable over *Simpson*. Applicant respectfully traverses such ground of rejection with the above amendments. It should be noted that *Simpson* does not disclose or suggest a base. Examiner mistakenly equivocates a platform with a base. However, the two elements are separate members. The application's written description and drawings which provide the definitions of the terms used in the claims are clear. The claims can have no greater scope than that provided by the specification. See *On Demand Machine Corp. v. Ingram Industries, Inc.*, 442 F.3d 1331, 1340 (Fed. Cir. 2006). In this case the application clearly distinguishes the difference between the terms a "platform" which is the member to which the ornament is attached, and a "base," which is a member upon which the platform is seated. Claim 8 is equally clear, the base element is the element upon which the platform element rests. The bottom surface of the platform rests upon the top surface of the base. Claim 8 has been amended to clarify this distinction. Therefore, this reference cannot by law anticipate the Claims as amended. Applicant respectfully requests the withdrawal of this ground of rejection.

**Claim 22.** Claim 22 is directed to the base member. No where does *Simpson* disclose a base member. As set forth above, the base member is separate from the platform. Accordingly, *Simpson* cannot anticipate Claim 22.

**CITED RELEVANT PRIOR ART**


It is not believed that any of the prior art cited but not relied upon, alone or in combination either with each other or other cited prior art teaches, discloses, suggests, or makes obvious the claimed features of the present invention.

**CONCLUSION**

In view of the foregoing amendments and comments, Applicant respectfully requests withdrawal of the current grounds of rejection and the issuance of a formal Notice of Allowance. The Examiner is invited to telephone the undersigned at his convenience should only minor issues remain after consideration of this amendment in order to permit early resolution of the same.

Respectfully submitted,

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